

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3879 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No.

2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No.

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
No.

5. Whether it is to be circulated to the Civil Judge?
No.

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

J G DESAI

Appearance:

MR HARDIK C RAWAL for Petitioner

MR RAMNANDAN SINGH for Respondent.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 05/02/98

ORAL JUDGEMENT

Rule. Mr. R.N.Singh, learned Advocate waives
service of the Rule on behalf of the respondent. With
the consent of the learned Advocates, this application is
taken up for final hearing to-day.

The petitioner, by way of this petition, challenges the order dated 20th January 1997 passed by the Conciliation Officer, Ahmedabad, in Approval Application No.426/96 preferred by the petitioner-Corporation rejecting the said application for approval under Section 33(2)(b) of the Industrial Disputes Act, 1947. The Conciliation Officer has rejected the said application on the ground that the petitioner-Corporation has not paid all the dues at the time of filing the approval application and, therefore, the approval application is not maintainable. In view of this, the Conciliation Officer has held that the respondent is entitled to continue in service with all consequential benefits.

Mr. Raval, learned Advocate, appearing for the petitioner, is unable to point out any illegality committed by the Conciliation Officer in passing the impugned order. However, he has submitted that in view of the proved misconduct, the respondent is liable to be dealt with by imposing any other penalty that may be decided by this Court. Mr. Singh, learned Advocate, appearing for the respondent, has, however, fairly agreed to this suggestion.

Considering the facts and circumstances of the case, I am of the view that since the incident in question happened on account of a very trifling issue. The respondent resumed her duties after sick leave and signed the muster without producing fitness certificate and when she was asked to produce the certificate, she had gone home to bring the certificate and returned at 13 hours. Therefore, the concerned officer insisted for half-day leave report which was given by the respondent. However, she had not stated in the half-day leave report whether it was for half-day before noon or half-day afternoon. When she was asked to clarify the same, she torn off the report itself and got excited and spoiled the atmosphere of the office. On the basis of these allegations, a chargesheet was issued, inquiry was held and ultimately she was dismissed. In my view for such a minor misconduct the punishment of removal from service is too harsh and excessive and, therefore, the ends of justice would be met with if the respondent is imposed a punishment of withholding of one increment for one year and without back wages from the date of dismissal i.e. 1-5-96 till 31st January, 1998 for the misconduct committed by her.

In the result, this petition is partly

allowed. The order dated 20-1-1997 passed by the Conciliation Officer in Approval Application No. 426/96 is modified to the extent that the petitioner is ordered to reinstate the respondent on her original post with continuity of service with punishment of withholding of one increment for one year and without back wages from the date of dismissal i.e. 1-5-96 till 31st January, 1998 for the misconduct committed by her. Rule is made absolute to the aforesaid extent with no order as to costs.

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